

(13) 3c
MATCH & RETURN

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Application of: D. PAUL *et al.*

Application No.: 09/828,625

Group Art Unit 18738

Filed: April 9, 2001

Examiner: S. Jackson

For: INTERVERTEBRAL ALLOGRAFT Attorney Docket No.: 8932-295
SPACER

**COMMUNICATION SUBMITTED WITH REQUEST FOR
CONTINUED EXAMINATION (RCE) CONCERNING PRIORITY CLAIM**

RECEIVED JUL 17 2002

TECHNOLOGY CENTER R3700

Box RCE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Priority claims of the present application currently are as follows:

- (1) continuation of U.S. Patent Application No. 09/363,844, filed July 30, 1999, now U.S. Patent No. 6,258,125 B1, which claims the benefit under 35 U.S.C. § 119(e) of Provisional Application No. 60/095,209, filed August 3, 1998; and
- (2) continuation-in-part of U.S. Patent Application No. 09/219,439, filed December 23, 1998, now U.S. Patent No. 6,143,033, which in turn claims the benefit under 35 U.S.C. § 119(e) of Provisional Application No. 60/073,271, filed on January 30, 1998 and Provisional Application No. 60/095,425, filed on August 5, 1998.

It has come to the attention of Applicants that the above-referenced priority claim may not yet be perfected in the present application, in that U.S. Patent No. 6,258,125 B1 does not claim the benefit under 35 U.S.C. § 120 of U.S. Patent Application No. 09/219,439, filed December 23, 1998, now U.S. Patent No. 6,143,033, which in turn claims the benefit under 35 U.S.C. § 119(e) of Provisional Application No. 60/073,271, filed on January 30, 1998 and Provisional Application No. 60/095,425, filed on August 5, 1998. In addition, Applicants have discovered an error in the priorities listed in Section II of the

Petition to Make Special filed April 9, 2001. The correct priorities were set forth in the fee transmittal sheet originally filed with the present application.

Applicants have filed concurrently herewith a Request for Continued Examination (RCE), in part, to suspend action on the present application so that a reissue application of U.S. Patent No. 6,258,125 B1 can be filed to claim priority as noted above. Applicants will make the filing of such reissue application of record in the present application when the reissue application has been filed. Applicants believe that by correcting the priority claim in U.S. Patent No. 6,258,125 B1, the priority claim in the present application will be perfected.

No fee is believed to be due for this submission. Should any fees be required, however, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Seth A. Watkins

FOR: Brian M. Rothery

Seth A. Watkins

Reg. No. 47,169

For: Brian M. Rothery

Reg. No. 35,340

Date July 11, 2002

PENNIE & EDMONDS LLP

1667 K Street, N.W.

Washington, DC 20006

(202) 496-4400